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1956

June 8

SEP 28 1956

CONCORD, NH

Mr. James J. Barry, Commissioner
Department of Public Welfare
State House Annex
Concord, New Hampshire

Dear Mr. Barry:

This is in response to your request of May 21, 1956, for our opinion as to the settlement of Bertha M. Poland.

Without completely restating the facts of this case, which are set out in full in your letter, we believe that they may be summarized as follows. When Bertha married her husband he had a settlement in Stoddard. After the marriage Mr. and Mrs. Poland broke up. She left Stoddard, moving to Fitzwilliam where she resided for a period sufficient to enable her to acquire a domicile in her own right, if such is permitted under the settlement laws. Mrs. Poland has since left Fitzwilliam. She has not been gone long enough to have abandoned her settlement, if any she had. Mr. Poland died recently, having resided continually in Stoddard until time of the death.

This office has consistently been of the opinion that a married woman cannot gain a settlement in her own right unless she is legally separated from her husband. Until such time as a divorce decree or a decree of legal separation is made by the courts of this State a married woman cannot acquire a settlement in her own right while her husband has a settlement. Since her husband, George Poland, had a settlement in Stoddard at the time of his death, Bertha Poland is a responsibility of that town.

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Mr. James J. Barry, Commissioner

-2-

In the event that legal proceedings are necessary to effect collection for assistance granted, suit will be brought against all subdivisions involved in order to fully protect the rights of the state.

Very truly yours,

Elmer T. Bourque
Assistant Attorney General

ETB/T